

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Frusetta Analyst: Kimberly Pantoja Bill Number: AB 1174
Related Bills: None Telephone: 845-4786 Amended Date: APTBA
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Corporate Good Citizens Program/Democracy Volunteer Credit

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow an employer a credit for the total amount of eligible salary or wages paid to employees for a period, not to exceed two working days per employee, during which those employees served as pollworkers at a national or statewide election during the taxable or income year.

This bill also would create the Corporate Good Citizens Program to encourage employers to allow employees to serve as pollworkers during any national or statewide election. Establishment of this program will be discussed only as it relates to the tax credit.

SUMMARY OF AMENDMENT

The proposed amendments replace provisions allowing a child care credit with the democracy volunteer credit provisions.

EFFECTIVE DATE

Since this bill is not a tax levy and the credit is tied to the enactment of the Corporate Good Citizens Program, this bill would apply to taxable or income years beginning on or after January 1, 2001.

SPECIFIC FINDINGS

Existing state and federal laws allow a tax deduction for business expenses, including employee salaries. They also allow a deduction for charitable contributions, subject to certain limitations, but do not allow a charitable deduction for donated time.

Existing state and federal laws provide various tax credits that are designed to provide tax relief for taxpayers who must incur certain expenses (e.g., child and dependent care credit) or to influence behavior, including business practices and decisions (e.g., research credits). However, state and federal laws do not currently allow a credit for salary or wages paid to employees for periods during which those employees served as pollworkers at a national or statewide election.

Existing state law provides hiring credits based on qualified wages paid to specified employees of businesses within various economic development areas. Although other limitations and restrictions may apply, qualified wages for this hiring credit cannot exceed 150% of minimum wage.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald Goldberg

12/31/99

This bill would allow a credit for the "democracy volunteer amount" paid or incurred by a "program taxpayer" during the taxable or income year.

This bill defines "democracy volunteer amount" as the total amount of eligible salary or wages paid to employees for that period, not to exceed two working days per employee, during which those employees served as pollworkers at a national or statewide election. For purposes of the bill, "eligible salary or wages" means for each employee the lesser of \$95 or 50% of the regular salary or wages of that employee for the period for which the employee served as a pollworker.

This bill defines "program taxpayer" as a taxpayer-employer that maintained, during the taxable year for which that taxpayer claims a credit under this section, a Corporate Good Citizens Program as described in Section 401 of the Elections Code.

Since this bill does not specify otherwise, the credit would be allowed for the same expenses for which a business expense deduction and an economic development area hiring credit were allowed.

This bill would allow a carryover of any portion of this credit that exceeds the taxpayer's tax liability until the credit is exhausted. Since this bill does not specify otherwise, the general rules in state law that apply to the division of credits among two or more taxpayers would apply. This credit would not reduce regular tax below tentative minimum tax for purposes of alternative minimum tax.

Policy Considerations

This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, if a repeal date were added, the department would be required to retain the carryover on the tax forms indefinitely because unlimited credit carryover is allowed. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

This bill would allow taxpayers to claim this credit and the hiring credit for economic development areas for the same wages paid to the employee if the taxpayer qualifies for the hiring credit.

This bill would allow taxpayers to claim this credit and a deduction for the same wages paid to an employee without limitation or reduction.

Implementation Considerations

Although the language of the bill specifies an effective date of January 1, 1999, for the tax credit, the credit could not be claimed by taxpayers until after the Corporate Good Citizens Program takes effect on January 1, 2001. Since the bill is not a tax levy, it would not take effect or be operative until January 1 of the year following enactment.

Employers establishing a Corporate Good Citizens Program would be required to inform county officials, who would notify the Secretary of State (SOS). The SOS would be responsible for providing the employer with a certificate.

It would be helpful if the SOS provided the department with a list of all qualified employers for verification of the credits.

With these concerns resolved, implementation of this bill would not significantly impact the department.

Technical Considerations

This bill would authorize a credit for eligible salary or wages paid to an employee for the period during which the employee "served as a pollworker at a national or statewide election." It is unclear what service qualifies as service as a pollworker at a national or statewide election. This uncertainty could lead to disputes between taxpayers and the FTB in the administration of this credit.

In order for an employer to be considered to have a Corporate Good Citizens Program, the employee must either be allowed the time off from work to serve as a pollworker at an election or be paid wages during time off from work to serve as a pollworker. However, to qualify for the credit under the Revenue and Taxation Code, an employer must pay or incur a wage or salary during the time the employee served as a pollworker at a national or statewide election. The proposed general provisions of the Election Code may be misleading to taxpayers since they appear to encourage either paid or unpaid pollworking service in any election; however, the tax credit would be allowed only for those employees who are paid by their employers while performing pollworking service at a national or statewide election.

FISCAL IMPACT

Departmental Costs

Once the implementation concerns are resolved, this bill should not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses from this provision are estimated to be as shown in the following table (it is assumed for qualified elections after December 31, 2000):

Fiscal Year Cash Flow Impact Qualified Elections After December 31, 2000 \$ Millions		
2002-03	2003-04	2004-05
-\$1	Minor Loss*	-\$1

* Loss less than \$500,000

Estimates reflect the timing of reported credits based on taxpayer accounting periods. It is assumed only elections in California would qualify.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Note: This bill, as currently drafted, does not disqualify employers where employees post their paid vacation time to serve as volunteers and qualify employers for the tax credit. Because of this issue, actual revenue losses could be somewhat larger than reported above.

Tax Revenue Discussion

The revenue impact of this provision will be determined by the number of individuals who volunteer as pollworkers in California, the amount of qualified wages paid, and the amount of credits that can be applied against available tax liabilities.

This estimate was developed in the following steps. First, according to the Sacramento County Registers Office, there are approximately 24,069 precincts in California with 96,000 pollworkers per election (primary and general), totaling 192,000 ($96,000 \times 2$) pollworkers per year. This number was adjusted upward to account for the additional Roving Inspectors and any special elections, generating approximately 210,000 pollworkers per year. Second, according to the same source, approximately 75% of the pollworkers are retired, unemployed, government workers, or high school students, leaving approximately 52,500 ($210,000 \times 25\%$) who would qualify employers for the tax credit. It was further assumed that 25% of qualifying employers would pay wages for employees who volunteer as pollworkers, generating 13,125 ($52,500 \times 25\%$) qualifying individuals per election year. Third, the number of individuals was multiplied by an average credit of \$95, generating on the order of \$1.2 million in credits. The revenue impact above reflects the cyclical nature of qualified elections and assumes a January 1, 2001, effective date.

BOARD POSITION

Pending.